

## REMARKS

The Office Action mailed February 17, 2006 has been carefully reviewed and the foregoing remarks have been made in consequence thereof.

Claims 1-60 are now pending in this application. Claims 1-60 are rejected.

The rejection of Claims 1-60 under 35 U.S.C. § 103(a) as being unpatentable over Juedes et al. ("Juedes") (WO 01/13261) in view of Kirsch (US 5,963,915) is respectfully traversed.

Juedes describes a system 100 that fulfills orders placed by a customer 104 from a provider 106 of a product over the Internet 102. The provider sends the order information to an e-commerce hub 112 which arranges for transportation and delivery of the product. The hub software automatically selects, based on the order information and predetermined stored criteria, which of a plurality of predetermined carriers should be used to transport the product from the provider to the customer. Notably, Juedes does not allow an order change to be made based on a user's security level clearance.

Kirsch describes an internet computer system 10 wherein a conventional client computer 12 is connected to the Internet 14 by an Internet Service Provider (ISP) and a server computer system 16 is connected to the Internet by an ISP. The server computer which is controlled by a local console 18 is configured to execute a Web server application. The client computer is configured to request a web page and permit the client to purchase items from the web page. After a client has accepted a purchase, an optional client PIN is provided that may be checked and verified against the client record. Additional levels of authentication and security may be added, however, these levels include usage of an optional PIN, restrictions on shipping destinations, and email confirmation of orders. Furthermore, these levels are limited to "a server process specific to the acceptance phase of initial purchase acceptance and confirmation." Notably, Kirsch does not allow an order change to be made based on a user's security level clearance.

It is asserted within the Office Action that although Juedes “does not expressly disclose the step of allowing an order change to be made based on a user’s security level clearance,” Kirsch teaches “that an order change is made based on a user’s security level clearance.” However, Applicants respectfully submit that the Examiner’s interpretation of the phrase “user’s security level clearance” is incorrect and that rather, Applicants submit that Kirsch describes a system that utilizes an optional personal identification number (PIN). A PIN is not a security level clearance, rather it is an access code, a mere subset of security options that may be employed by a user having a security level clearance. As such, Applicants respectfully submit that Kirsch describes a system that utilizes an optional personal identification number (PIN), not a security level clearance.

Claim 1 recites “a method of managing a delivery schedule of an order using a system configured with a server which includes a goods delivery system...said method comprising ...allowing an order change to be made based on a user’s security level clearance.”

Neither Juedes nor Kirsch, considered alone or in combination, describe or suggest a method of managing a delivery schedule as is recited in Claim 1. Specifically, neither Juedes nor Kirsch, considered alone or in combination, describe or suggest a method of managing a delivery schedule of an order using a system configured with a server which includes a goods delivery system, wherein the method includes allowing an order change to be made based on a user’s security level clearance. Rather, in contrast to the present invention, Juedes describes a delivery system wherein order status is updated or changed without regard to a user’s security level clearance. Kirsch does not overcome the deficiencies of Juedes. Kirsch merely describes an optional PIN. Kirsch does not describe allowing an order change to be made based on a user’s security level clearance, as required by Applicant’s claimed invention. For the reasons set forth above, Claim 1 is submitted to be patentable over Juedes in view of Kirsch.

Claims 2-14 depend from independent Claim 1. When the recitations of Claims 2-14 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 2-14 likewise are patentable over Juedes in view of Kirsch.

Claim 15 recites “a method of managing a delivery schedule of an order using a system configured with a server...said method comprising...allowing an order change to be made based on a user’s security level clearance.”

Neither Juedes nor Kirsch, considered alone or in combination, describe or suggest a method of managing a delivery schedule as is recited in Claim 15. Specifically, neither Juedes nor Kirsch, considered alone or in combination, describe or suggest a method of managing a delivery schedule of an order using a system configured with a server, wherein the method includes allowing an order change to be made based on a user’s security level clearance. Rather, in contrast to the present invention, Juedes describes a delivery system wherein order status is updated or changed without regard to a user’s security level clearance. Kirsch does not overcome the deficiencies of Juedes. Kirsch merely describes an optional PIN. Kirsch does not describe allowing an order change to be made based on a user’s security level clearance, as required by Applicant’s claimed invention. For the reasons set forth above, Claim 15 is submitted to be patentable over Juedes in view of Kirsch.

Claims 16-25 depend from independent Claim 15. When the recitations of Claims 16-25 are considered in combination with the recitations of Claim 15, Applicants submit that dependent Claims 16-25 likewise are patentable over Juedes in view of Kirsch.

Claim 26 recites “a computer program storage medium readable by a computer system and encoding a computer program of instructions for executing a computer process for managing deliveries of a goods delivery system...said computer process comprising...allowing an order change to be made based on a user’s security level clearance.”

Neither Juedes nor Kirsch, considered alone or in combination, describe or suggest a computer program storage medium as is recited in Claim 26. Specifically, neither Juedes nor Kirsch, considered alone or in combination, describe or suggest a computer program storage medium readable by a computer system and encoding a computer program of instructions for executing a computer process for managing deliveries of a goods delivery system, wherein

the computer process includes allowing an order change to be made based on a user's security level clearance. Rather, in contrast to the present invention, Juedes describes a delivery system wherein order status is updated or changed without regard to a user's security level clearance. Kirsch does not overcome the deficiencies of Juedes. Kirsch merely describes an optional PIN. Kirsch does not describe allowing an order change to be made based on a user's security level clearance, as required by Applicant's claimed invention. For the reasons set forth above, Claim 26 is submitted to be patentable over Juedes in view of Kirsch.

Claims 27-39 depend from independent Claim 26. When the recitations of Claims 27-39 are considered in combination with the recitations of Claim 26, Applicants submit that dependent Claims 27-39 likewise are patentable over Juedes in view of Kirsch.

Claim 40 recites "an apparatus for managing the delivery of an order from at least one supplier to a respective delivery agent, and from the delivery agent to a respective buyer, given order information, said apparatus comprising...means for allowing an order change to be made based on a user's security level clearance."

Neither Juedes nor Kirsch, considered alone or in combination, describe or suggest an apparatus for managing the delivery of an order as is recited in Claim 40. Specifically, neither Juedes nor Kirsch, considered alone or in combination, describe or suggest an apparatus for managing the delivery of an order from at least one supplier to a respective delivery agent, and from the delivery agent to a respective buyer, given order information, wherein the apparatus includes a means for allowing an order change to be made based on a user's security level clearance. Rather, in contrast to the present invention, Juedes describes a delivery system wherein order status is updated or changed without regard to a user's security level clearance. Kirsch does not overcome the deficiencies of Juedes. Kirsch merely describes an optional PIN. Kirsch does not describe allowing an order change to be made based on a user's security level clearance, as required by Applicant's claimed invention. For the reasons set forth above, Claim 40 is submitted to be patentable over Juedes in view of Kirsch.

Claim 41 recites “a method of managing a delivery schedule of a multiple brand order using a system configured with a server which includes a goods delivery system...said method comprises allowing an order change to be made based on a user’s security level clearance.”

Neither Juedes nor Kirsch, considered alone or in combination, describe or suggest a method of managing a delivery schedule of a multiple brand order as is recited in Claim 41. Specifically, neither Juedes nor Kirsch, considered alone or in combination, describe or suggest a method of managing a delivery schedule of a multiple brand order using a system configured with a server which includes a goods delivery system, wherein the method includes allowing an order change to be made based on a user’s security level clearance. Rather, in contrast to the present invention, Juedes describes a delivery system wherein order status is updated or changed without regard to a user’s security level clearance. Kirsch does not overcome the deficiencies of Juedes. Kirsch merely describes an optional PIN. Kirsch does not describe allowing an order change to be made based on a user’s security level clearance, as required by Applicant’s claimed invention. For the reasons set forth above, Claim 41 is submitted to be patentable over Juedes in view of Kirsch.

Claims 42-50 depend from independent Claim 41. When the recitations of Claims 42-50 are considered in combination with the recitations of Claim 41, Applicants submit that dependent Claims 42-50 likewise are patentable over Juedes in view of Kirsch.

Claim 51 recites “a method of managing a delivery schedule of a multiple brand order using a system configured with a server which includes a goods delivery system...said method comprises...allowing an order change to be made based on a user’s security level clearance.”

Neither Juedes nor Kirsch, considered alone or in combination, describe or suggest a method of managing a delivery schedule of a multiple brand order as is recited in Claim 51. Specifically, neither Juedes nor Kirsch, considered alone or in combination, describe or suggest a method of managing a delivery schedule of a multiple brand order using a system

configured with a server which includes a goods delivery system, wherein the method includes allowing an order change to be made based on a user's security level clearance. Rather, in contrast to the present invention, Juedes describes a delivery system wherein order status is updated or changed without regard to a user's security level clearance. Kirsch does not overcome the deficiencies of Juedes. Kirsch merely describes an optional PIN. Kirsch does not describe allowing an order change to be made based on a user's security level clearance, as required by Applicant's claimed invention. For the reasons set forth above, Claim 51 is submitted to be patentable over Juedes in view of Kirsch.

Claims 52-60 depend from independent Claim 51. When the recitations of Claims 52-60 are considered in combination with the recitations of Claim 51, Applicants submit that dependent Claims 52-60 likewise are patentable over Juedes in view of Kirsch.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 1-60 be withdrawn.

Applicants respectfully submit that the Section 103 rejection of the presently pending claims is not a proper rejection. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Juedes nor Kirsch, considered alone or in combination, describe or suggest the claimed combination. Furthermore, in contrast to the assertion within the Office Action, Applicants respectfully submit that it would not be obvious to one skilled in the art to combine Juedes with Kirsch, because there is no motivation to combine the references suggested in the art. Additionally, the Examiner has not pointed to any prior art that teaches or suggests to combine the disclosures, other than Applicants' own teaching. Rather, only the conclusory statement that "it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the method of Juedes such that the method includes an optional PIN, as taught by Kirsch, for the purpose of providing a method of efficiently performing secure purchase transactions over the Internet," suggests combining the disclosures.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levingood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion nor motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Further, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, Juedes is cited for describing an Internet order fulfillment system and Kirsch is cited for an optional PIN. Since there is no teaching or suggestion in the cited art for the combination, the Section 103 rejection is clearly based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejection be withdrawn.

In view of the foregoing remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,

Eric T. Krischke  
Eric T. Krischke  
Registration No. 42,769  
ARMSTRONG TEASDALE LLP  
One Metropolitan Square, Suite 2600  
St. Louis, Missouri 63102-2740  
(314) 621-5070